

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Misuse of Internet Protocol (IP) Captioned)	
Telephone Service)	CG Docket No. 13-24
)	
Telecommunications Relay)	
Services and Speech-to-Speech Services for)	
Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	
To: The Commission)	

ADDENDUM TO PETITION FOR LIMITED WAIVER

Purple Communications, Inc. ("Purple") hereby files this addendum to its Petition for Limited Waiver ("Petition") filed on March 1, 2013.¹ Purple's Petition sought a limited waiver of the March 7, 2013 effective date for interim rule 47 C.F.R Part 64.604(c)(10)(i), which requires that IP CTS equipment and services operate with a default setting of captions "off" so that new and existing users must affirmatively turn on captioning for each telephone call initiated or received before captioning is provided. Purple files this addendum to request a limited 45-day waiver for service that will be provided through the Clarity® Ensemble™ Phones. Purple urges the Commission, as a matter of public policy and consistent with the law,² to treat all providers requesting waivers of the new interim rule equally.³ For example, it would be inconsistent with

¹ See Petition for Limited Waiver of Purple Communications, Inc., CG Docket No. 13-24, *et al.*, filed March 1, 2013; see also *Misuse of Internet Protocol (IP) Captioned Telephone Service, et al.*, CG Docket No. 13-24, *et al.*, Order and Notice of Proposed Rulemaking, FCC 13-13 (Jan. 25, 2013) (the "Order").

² See *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

³ See Emergency Petition for Waiver of Sorenson Communications, Inc. and CaptionCall, LLC, CG Docket No. 13-24, *et al.*, filed March 7, 2013 (requesting five-month waiver); see also Petition for Limited Waiver of Hamilton

notions of fundamental fairness and the law for the Commission to grant Sorenson Communications, Inc. a five-month waiver without granting a five-month waiver to Purple, as well. Indeed, under the limited 45-day waiver period requested by Purple, it is likely that Purple will need to cut service for certain customers, or will not receive compensation for service provided. The longer the period of waiver granted by the FCC, the less the impact will be to Purple, either through stopping service or through failing to be compensated for service provided.

Purple explained in its Petition that its IP CTS service, ClearCaptions, is delivered through web and wireless access, on the Clarity® Ensemble™ Phone, and on multiple versions of the Cisco IP Phone. In order to comply with the new interim rule requirements adopted in the Order, the software in the Ensemble and Cisco IP phones had to be redesigned to remove the ability of the individual customer to set an automatic default-on option. Purple did not request a waiver for the Ensemble devices in its initial Petition because, through strenuous and dedicated efforts of Clarity and Purple's staff, the company believed it would be able to distribute the required software upgrade and comply with the new requirements by the March 7 deadline.

Purple and Clarity did in fact develop the necessary software patch for the Ensemble devices, and Clarity deployed the patch on March 7. However, Clarity informed Purple on March 4, 2013 that because of the manner in which the software on the Ensemble phones is configured, the software patch is downloaded to the phone on the specific day of the week the phone is configured to download software updates – and that day varies by individual device. In

Relay, Inc., Sprint Communications Company, L.P., and Captel Inc., CG Docket No. 13-24, *et al.*, filed Feb. 22, 2013; Emergency Petition of Sprint Nextel for Limited Waiver and Clarification, CG Docket No. 13-24, *et al.*, filed March 5, 2013.

other words, for certain phones, software updates are only accepted on Mondays, and for other phones, software updates are only accepted on Thursdays.

As a result, not all of the Ensemble phones that have already been distributed to customers and registered for ClearCaptions accounts would necessarily be updated with the software patch by March 7 even though the software update was deployed on March 7. Because Purple sent e-mails in advance informing customers of the new requirements and instructing them to manually set their phones to default off, a number of Ensemble devices were manually set to default off prior to March 7, but the Ensemble phones will only be updated with the required software patch on whatever day of the week each particular phone is physically programmed to download software updates.

Additionally, there are Ensemble phones still on distributors' shelves awaiting distribution. These devices will not be updated with the necessary software patch until they are distributed and then connected to the Internet, and then only on the day of the week that the devices are programmed to download software updates.

For these reasons, in addition to the limited waiver request for Cisco phones made in its initial Petition, Purple requests a 45-day waiver for service provided through the Ensemble phones to allow the devices to be timely updated with the software patch distributed on March 7

in compliance with the Commission's interim rule requirements. Purple also requests a limited waiver to obtain compensation from the TRS Fund Administrator for calls made on Ensemble phones that have not yet accepted the software update.

Respectfully submitted,

PURPLE COMMUNICATIONS, INC.

A handwritten signature in dark ink, appearing to read 'JGL', is positioned above the typed name of John Goodman.

John Goodman
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March 14, 2013